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**OFFICE OF PETITIONS**

In re Application of :  
Tiemann et al. : DECISION ON PETITION  
Application No. 09/826,552 :  
Filed: April 4, 2001 :  
Atty Docket No. PRGY.0102270 :

This is a decision on the PETITION TO THE COMMISSIONER UNDER  
RULES 1.181-1.182 filed July 11, 2006.

The above-identified application became abandoned for failure to  
file a reply to the non-final Office action mailed June 24,  
2005. This Office action set a shortened statutory period for  
reply of three (3) months, with extensions of time obtainable  
under § 1.136(a). No reply considered timely filed and no  
extension of time considered obtained, the application became  
abandoned effective September 25, 2005. A courtesy Notice of  
Abandonment was mailed on June 29, 2006.

Applicants contend that a timely response was filed by facsimile  
transmission on August 3, 2005. In support thereof, applicants  
submit a copy of the response as filed, a copy of their  
facsimile confirmation sheet confirming successful transmission,  
and a copy of the USPTO auto-reply acknowledging receipt of a  
facsimile transmission sent to the Office's Centralized  
Facsimile number.

Petitioner's evidence and arguments have been considered and it  
is concluded that the requirements of 37 CFR § 1.8(b) have been  
met. The response is considered timely filed by facsimile  
transmission on August 3, 2005.


In view thereof, the Notice of Abandonment mailed June 29, 2006 is hereby **vacated**, and the holding of abandonment is **withdrawn**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2153 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response previously filed on August 3, 2005 and resubmitted on petition filed July 11, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions